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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

PRESIDING OFFICER'S
RULING NO. MC96-3/24

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Special Services Fees and Classifications

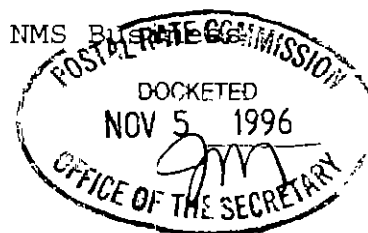
Docket No. MC96-3

PRESIDING OFFICER'S RULING GRANTING
NASHUA PHOTO INC., MYSTIC COLOR LAB, AND SEATTLE
FILMWORKS, INC. MOTION FOR PROTECTIVE CONDITIONS

(November 5, 1996)

On November 1, 1996, Nashua Photo, Inc., Mystic Color Lab, and Seattle Filmworks, Inc., ("NSM") filed a "Motion for Order Protecting Confidentiality, and Prohibiting Unnecessry Disclosure, of Proprietary Business Information." ("Motion"). NMS-WPS is a workpaper that supports the testimony of NSM witness John Haldi. It purports to estimate the effect of the NSM Business Reply Mail proposal on net Postal Service revenue in the Test Year. It contains disaggregated volume and unit cost data for Nashua Photo, Inc., Mystic Color Lab, and Seattle Filmworks, Inc., respectively, during periods in 1995 and 1996. See Tables WP2-1 and WP2-2, of redacted NMS-WP2 accompanying the Motion.

NMS alleges that disclosure of the volume and unit cost data in NMS-WP2 to competitors in the film processing industry could have a severely adverse effect on one or more of the movants. NMS asserts that these data have been kept confidential from each other, and have been disclosed only to Dr. Haldi, his counsel, and to the Postal Service attorneys litigating the NMS Business Reply Mail proposal.



Reply Mail proposal in this docket, pursuant to a nondisclosure agreement. Motion at 2-3.

NMS asks for a ruling affording NMS-WP2 *in camera* treatment under Rule 31a of our Rules of Practice. It asks that NMS-WP2 not be disclosed beyond members of the Commission and the Postal Service attorneys litigating its Business Reply Mail proposal. It asks that there be no expiration date for *in camera* treatment of NMS-WP2, and that it be returned to counsel for NMS when the Governors' Decision in this docket becomes final. NMS asks that the *in camera* ruling require a participant to file a motion for permission from the Presiding Officer before publicly disclosing the confidential data in NMS-WP2. Finally, it asks that the *in camera* ruling require that NMS-WP2, and any testimony disclosing its confidential contents, be segregated from the public record and sealed as part of the *in camera* record. Motion at 3.

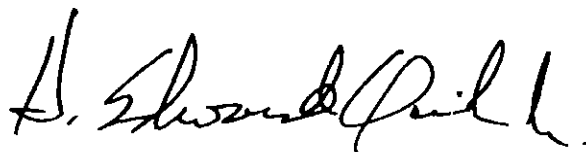
This Motion is, in effect, a request for a declaratory ruling that NMS-WP2 will not be disclosed to anyone other than the Commission staff and the Postal Service attorneys litigating the NMS Business Reply Mail proposal. Rulings imposing protective conditions on material offered in evidence are normally issued in the context of formal requests for disclosure of such material. Such rulings are normally based on a balancing of interests of the participant requesting disclosure and the interests of the participant submitting the material. In the absence of such a request, it is appropriate only to rule that when NMS-WP2 is filed with the Commission, it will be afforded the protective conditions that NMS requests, subject to further motion practice, if a participant other than the Postal Service should seek access to this material. Although the showing by NMS

3

of likely competitive harm is somewhat general, no party (other than the Postal Service) has yet indicated an interest in accessing the material. Under these circumstances, the showing of competitive harm by NMS is sufficient to justify initial in camera treatment of NMS-WP2.

RULING

The Nashua Photo Inc., Mystic Color Lab, and Seattle Filmworks, Inc. Motion for Order Protecting Confidentiality, and Prohibiting Unnecessary Disclosure, of Proprietary Business Information, filed November 1, 1996, is granted to the extent described in the body of this ruling.



H. Edward Quick, Jr.
Presiding Officer